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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/828,756

04/09/2001

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RSW9-2000-0179-US1

6494

7590

01/24/2005

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EXAMINER

BULLOCK JR, LEWIS ALEXANDER

ART UNIT

PAPER NUMBER

2127

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/828,756	<b>Applicant(s)</b> SARKAR ET AL.	
	<b>Examiner</b> Lewis A. Bullock, Jr.	<b>Art Unit</b> 2127	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,12,13 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-5,8-11 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 2-5,8-11 and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. The following is a statement of reasons for the indication of allowable subject matter: The claims are allowable for at least the following reason: All of the cited claims have allowable subject matter indicates how the single machine having multiple instances of the same software program elects a supervisor program instance. The cited election is performed by allowing each instance to establish a TCP socket and attempt to create a binding between its TCP socket and a supervisor port number of the TCP/IP stack; and designating the software instance which succeeds in creating the binding as the supervisor program. By using the cited election algorithm, the inventor achieve simple administration and coordination of multiple copies of the same program on a single machine, and also facilitates quick and efficient handling of situations in which any of the programs fail, i.e. the supervisor program fails, all of the remaining subordinate programs immediately begin the election of a new supervisor and if one of the subordinate programs fails, the supervisor immediately removes the failed subordinate program from the registry so that failed attempts to communicate with the failed subordinate program do not occur. The cited prior art of record does not teach the cited election wherein each instance attempts to create a binding between its TCP socket and a supervisor port number of the TCP/IP stack and designating the software

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instance which succeeds in creating the binding as the supervisor program. The prior art of record at best teaches designating by a user which instance is the master or supervisor program and which instances are the subordinate programs. Therefore, the prior art of record do not achieve the cited advantages that Applicant's invention acquires and the claims have allowable subject matter over the prior art of record.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 6, 7, 12, 13 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by CONSTANTINOF (U.S. PATENT 6,822,961).

As to claim 1, CONSTANTINOF teaches a method for coordinating multiple instances of the same software program (cache pool manager) residing in a single machine, comprising the steps of: automatically electing one of the software instances as a supervisor program (master), thereby designating the remainder of the software instances as subordinate programs (slave) (col. 5, line 63 – col. 6, line 16); establishing communication connections between the supervisor program (master) and each of the subordinate programs (slave) (via sending a message to a slave to use one of its

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services or assign it a service) (col. 8, lines 10-19; col. 8, lines 31-53); and coordinating all of the software instances by having the supervisor program (master) monitor and control all operations of the subordinate programs (slaves) which require coordination via the communication connections (via sending a message to a slave to use one of its services or assign it a service) (col. 8, lines 10-19; col. 8, lines 31-53).

As to claim 6, CONSTANTINOF teaches each process having a registry wherein the master cache pool manager controls the use of SVC resources and determines which SVC will be used for any particular connection request and determines when new SVCs will be added to a cache pool or deleted from a cache pool (col. 5, line 66 – col. 6, line 9). Therefore, it is inherent within the system of CONSTANTINOF that the master cache manager must have a registry or listing of current SVCs (unique entries) of each slave instance in order to know what to remove or what to add.

As to claims 7 and 12, reference is made to a computer readable program product that corresponds to the method of claims 1 and 6 and is therefore met by the rejections to claims 1 and 6 above.

As to claims 13 and 18, reference is made to a system that corresponds to the method of claims 1 and 6 and is therefore met by the rejection of claims 1 and 6 above.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

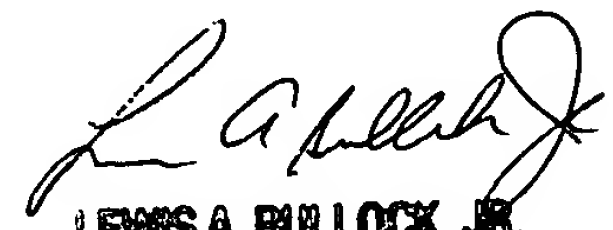
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis A. Bullock, Jr. whose telephone number is (571) 272-3759. The examiner can normally be reached on Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 18, 2005



**LEWIS A. BULLOCK, JR.**  
**PRIMARY EXAMINER**